

DIRECTIVE

JOB TRAINING PARTNERSHIP ACT

Number: D98-6

Date: September 21, 1998
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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
JTPD STAFF

SUBJECT: REPORTING FRAUD AND ABUSE

EXECUTIVE SUMMARY:

Purpose:

The purpose of this directive is to establish procedures for reporting to the Compliance Review Division (CRD) of the Employment Development Department (EDD) all suspected or known instances of fraud, abuse, or other criminal activity related to programs funded under the Job Training Partnership Act (JTPA).

Scope:

This directive applies to service delivery areas (SDA) and other subrecipients of programs funded under JTPA.

Effective Date:

This directive is effective on its date of issuance.

REFERENCES:

- Title 20 Code of Federal Regulations (CFR) Sections 627.500(c)
- Training and Employment Guidance Letter, 6-84

STATE-IMPOSED REQUIREMENTS:

This directive contains state-imposed requirements that are shown in ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive supersedes JTPA Directive 91-2, dated June 28, 1991. Retain this directive until further notice.

BACKGROUND:

Implementing regulations for JTPA, Title 20 CFR Section 627.500(c), provide that "Information and complaints involving criminal fraud, waste, abuse, or other criminal activity shall be reported through the Department of Labor's (DOL) Incident Reporting System, directly and immediately to DOL's Office of the Inspector General (OIG), Office of Investigations or to the corresponding Regional Inspector General for investigations, with a copy simultaneously provided to the Employment and Training Administration (ETA).

This directive is intended to ensure that all instances of fraud, abuse, or other criminal activity associated with JTPA-funded activities are also promptly reported to CRD.

This directive is intended to emphasize the need to take prompt and appropriate action when any evidence of a violation of the JTPA or its implementing regulations is known or suspected.

POLICY AND PROCEDURES:

Definitions:

Complaint, for this directive only, means criminal complaint.

Subrecipient, for this directive, means SDAs and other subrecipients that receive JTPA funds directly from the state.

Lower-tier subrecipient means a subrecipient that does not receive JTPA funds directly from the state.

General:

The State of California has three distinct procedures for the processing and filing of complaints. The procedures are categorized by the following types of complaints:

- Grievance (Noncriminal)
- Discrimination and Equal Opportunity (Noncriminal)
- Fraud, Waste, and Abuse (Criminal)

The term “complaint” is used interchangeably within JTPA when referring to all three procedures.

All subrecipients that receive JTPA funds shall promptly report to CRD all allegations of JTPA-related fraud, abuse, and other criminal activity.
“Attachment 1” is a glossary of terms related to reportable issues.

Each subrecipient shall establish appropriate internal program management procedures to prevent and detect fraud, abuse, and criminal activity. These procedures must include a reporting process to ensure that CRD is notified immediately of any allegations of JTPA-related fraud, abuse, or criminal activity. Internal management procedures must be in writing and include the designation of a person on the subrecipients' staff who will be responsible for such notifications.

Lower-tier subrecipients will establish, document, and implement procedures to immediately notify the funding entity of any suspected or proven fraud, abuse, or other criminal activity involving JTPA-funded activities. Lower-tier subrecipients must be advised, in writing, by their funding entity, of the responsibility to be alert for instances of fraud, abuse, and criminal activity committed by staff, contractors, or program participants and to report all such instances to the funding entity and CRD immediately. Proof that lower-tier subrecipients have been notified of this requirement must be maintained in the funding entity's files.

Subrecipients detecting the presence or appearance of fraud, abuse, or other criminal activity must obtain sufficient information to provide a clear, concise report of each incident. Reports must include a statement of all facts as well as any known or estimated loss of JTPA funds resulting from the incident. It is important that an initial report is made to CRD within 24 hours of the detection of the incident. The submission of an incident report should not be delayed if all facts are not readily available. Any facts subsequently developed by the subrecipient are to be forwarded in a supplemental incident report.

The reporting procedures do not supersede the responsibility for subrecipients to safeguard JTPA funds by taking prompt and appropriate corrective action upon becoming aware of any evidence of a violation of the JTPA or its implementing regulations.

Reporting:

Within 24 hours of detection or discovery of information alleging fraud, abuse, or other criminal activity involving JTPA funds, a written report shall be prepared by the detecting entity using the DOL Incident Report Form DL 1-156, "Attachment 2." The report shall be submitted to:

Compliance Review Division, MIC 22M
Attention: Compliance Resolution Unit
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

Allegations considered to be of an emergency nature may be reported by telephone to your assigned Job Training Partnership Division (JTPD) program manager at (916) 654-7799, the Compliance Resolution Unit Supervisor at (916) 653-3270, or by calling the OIG/DOL Hot Line at 1-800-347-3756 and ***followed immediately thereafter by a written report.***

The CRD or JTPD will forward all incident reports to the EDD Investigation Division within 24 hours of their receipt. The EDD Investigation Division will record the report in the JTPA Incident Report System and forward the report to DOL, ETA, Region IX, within one working day of receipt. It may, however, be necessary for the EDD Investigation Division to contact the reporting entity for clarification or additional details prior to forwarding the report.

On receipt, ETA Region IX will forward the report to DOL Regional OIG, San Francisco. The OIG will advise EDD of the action that will be taken by their office. The EDD Investigation Division will communicate with OIG regarding their intent. If OIG fails to respond or states they intend to take no action, EDD's Oversight Group, comprised of JTPD, Compliance Review Unit, Audit and Evaluation Division, and the Investigation Division, will discuss what action may be taken by EDD. The CRD may notify the reporting entity what action will be taken regarding the investigation of the alleged incident. If neither OIG nor EDD plan to take any action, CRD will refer the matter to the entity reporting the incident for resolution.

Whenever the entity reporting the allegation of an incident believes that immediate action to prevent further financial loss or other damage is necessary, or recovery of funds or property may be impeded if immediate action is not taken, the reporting entity has the responsibility to take any action it deems appropriate, including contacting the local law enforcement agency. ***Any immediate action taken or planned by the reporting entity will be reported to CRD when the incident report is submitted. When the alleged incident is not of an emergency nature, and no immediate action is necessary, the reporting entity should await instructions from CRD before taking any further action.***

Allegations of fraud, abuse, or other criminal activity in JTPA-funded programs may originate from sources other than SDAs, subrecipients, or other responsible agencies. Such sources may include informants, independent auditors, or local law enforcement agencies. Whenever EDD receives an allegation from another source, an incident report (DOL Form DL 1-156) must be prepared and submitted to the Investigation Division who will forward the report to the ETA Region IX in accordance with this directive. The CRD may inform the subject subrecipient of the incident when reported.

During an investigation, based on a report of fraud or abuse, DOL OIG investigators or auditors may contact a subrecipient regarding an incident of which the subrecipient was not previously aware. Upon learning of the incident from federal sources, the subrecipient should contact CRD to determine whether the incident is known to that office. If the subrecipient is not aware of the allegations, then CRD will inform the subrecipient of the incident reported.

ACTION:

All California SDAs shall review the procedures specified in this directive and ensure that their policies and procedures, as well as those of their subrecipients, are in accordance with these state and federal requirements.

INQUIRIES:

If you have any questions about the information contained in this directive, please contact your assigned program manager at (916) 654-7799 or Georganne Pintar, Manager of the Policy Unit, at (916) 654-7611.

/S/ BILL BURKE

Assistant Deputy Director

Attachment available on Internet:

1. Glossary

Attachments not available on Internet. To obtain a copy, e-mail JTPD at JTPDLIB@EDD.CA.GOV (subject line should read: "Attachment") or contact Gia Valla at (916) 654-7686.

2. DOL/OIG, Incident Report, Form DL 1-156
3. Form DL 1-156 Instructions

GLOSSARY

The definitions that follow are provided for use as a guide in the identification of fraud, abuse, and other criminal activity. Since the definitions cannot address every possible activity, questions as to whether an activity is reportable under this policy should be referred to your assigned Job Training Partnership Division program manager for clarification and guidance.

Fraud is any deceitful act or omission, or willful device used with the intent to obtain some unjust advantage for one party, or to cause an inconvenience or loss to another party. Types of fraud include embezzlement, forgery, theft, solicitation and receipt of bribes (kickbacks), and falsification of records and claims regarding trainees (e.g., knowingly enrolling ineligible participants). Criminal fraud is a type of larceny and is punishable under both federal and California law as a felony. Civil fraud is subject to tort actions under civil laws.

Misapplication of Funds is defined as any use of funds, assets, or property not authorized or provided for in the grant or contract. This category includes, but is not limited to, nepotism, political patronage, use of participants for political activity, intentional services to ineligible enrollees, conflict of interest, failure to report income derived from federal funds, violation of contract provisions, maintenance of effort violations, and the use of JTPA funds for other than JTPA purposes.

Gross Mismanagement is defined as actions, or situations arising out of management ineptitude or oversight, which lead to a major violation of contract provisions and/or which severely hamper accomplishment of program goals. These include situations which lead to waste of government resources and put into serious jeopardy future support for a particular project. This category includes, but is not limited to, unauditable records, unsupported costs, highly inaccurate fiscal and/or program reports, payroll discrepancies, payroll deductions not paid to the Internal Revenue Service or the State of California, and the lack of internal control procedures.

Employee/Participant Misconduct should be considered as actions occurring during or outside work hours, that reflect negatively on the program or its purpose, and may include, but are not limited to, conflict of interest involving outside employment, business and professional activities, and the receipt or giving of gifts, fees, entertainment, and favors; misuse of federal property; misuse of official information; and other activities that might adversely affect the confidence of the public regarding the integrity of government.

Standard of Conduct Violations are violations of terms and conditions stipulated in the subgrant agreement. The relevant stipulations in the subgrant agreement are General Assurances, Employment of Former State Employees, Conducting Business Involving Relatives, Conducting Business Involving Close Personal Friends and Associates, Avoidance of Conflict of Economic Interest, and Maintenance of Effort.